

Vote No on Question 3 on November 2

Right to Food Rolls Over Home Rule without Addressing Hunger

On November 2, Maine voters will be asked to decide the fate of an amendment to Maine's Constitution regarding the right to food.

As drafted, Question 3 seeks to provide individuals with “a natural, inherent and unalienable right to food, including the right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being, as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food.”

While ensuring that all Maine residents have unfettered access to food for nourishment, sustenance and well-being is a laudable goal, in reality the vagueness of the proposed language will likely create unintended consequences.

What is a Right?

When it comes to the provisions found in Maine's Constitution, language matters.

In short, a right is a liberty constitutionally protected from government interference. What this means is that a “right” enshrined by the language is ultimately decided by the courts through case law, and not by state lawmakers or legal analysts. Unlike a state law that can be easily amended, a change to a constitutional provision must first be supported by two-thirds of the members of the Legislature and then ratified by the voters at a statewide election.

Specific to Question 3, the amendment's vague language will need to be litigated. Without a clear definition of what this right entails, any unit of government that adopts or enforces a statute or ordinance that is perceived to infringe on the right to food, will be challenged. It will be left to the courts to establish the parameters necessary to determine if an inherent and unalienable right has been violated at great expense to state and local taxpayers.

What “Rights” does Question 3 protect?

Personal Choice: Providing individuals the right to “grow, raise, harvest, produce and consume the food of their own choosing,” makes protecting personal choice a priority over the protection of public health and safety and access to adequate, accessible and sustainably grown food.

For example, institutions that are required by federal and state regulations to feed certain populations, such as schools, county jails and prisons, could be required to adhere to an individual's personal choice for food, rather than meeting established nutritional standards.

Private Property Rights: Additionally, Question 3 states that those rights are “natural, inherent and unalienable,...as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food.”

As an example, if perceived as being too restrictive this broad provision could leave related municipal ordinances open to challenge, including those regulating where livestock can be raised in cities, pesticides uses or nutrient management restrictions in shoreland zoning and even setbacks.

This right could also allow residents to bring invasive plant and fish species into Maine, overriding the state's interest in protecting fragile eco-systems that may put existing food crops at risk.

In addition, the broadly drafted language could be perceived as giving people the right to impose their preferences on neighbors' private property rights by preempting implementation and enforcement of reasonable land use regulations that limit the number of farm animals that can be raised in certain areas of a community.

Mainers Are Hungry: How should government respond? Municipalities and the state need the flexibility to respond to emergent needs. The "Right to Food" is achieved when food is universally available, easy for individuals to access or acquire, provides adequate nutrition to meet an individual's needs and harvested from sustainable resources to ensure future availability for all.

Municipalities Already Lead The Way: Local communities are often left to fill the unmet needs of their residents who fall through the cracks of existing food programs. Volunteer groups throughout the state are actively addressing hunger through a variety of creative means from funding local food banks and "backpack" programs to collecting food donations during town meetings and delivering school meals directly to students' homes. These groups and volunteers work in partnership with local businesses, farms, and farmers' markets to address food insecurity. Food programs need greater investment, not constitutional challenges.

Maine municipal leaders urge you to vote no on Question 3.

Fund Local Food Programs Not Trial Lawyers.